

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

RACHEL SPEARS JOHNSTON,
Plaintiff,

v.

UNITED STATES OF AMERICA,
ET AL

Defendants.

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Case No. 3: 23-cv-930
Judge Richardson / Frensley

REPORT AND RECOMMENDATION

This pro se 42 U.S.C. § 1981 action is before the Court on review of the file. Plaintiff Rachel Spears Johnston filed her complaint on August 31, 2023. Docket No. 1. By order dated January 26, 2024, the undersigned granted plaintiff until February 16, 2024, to effectuate service on all named defendants and to show cause why this case should not be dismissed for failure to prosecute. Docket No. 14. To date Plaintiff has failed to respond to this Court's order.

Rule 4(m) requires that defendants be served with process within 90 days of the date the action was filed, and provides that, in the absence of a showing of good cause by the plaintiff for why service has not been timely made, the Court "must dismiss" the action without prejudice. Because Defendant in this case have not been served with process within the time period set out in Rule 4(m), the action should be dismissed.

For the reasons set forth herein, the Court respectfully recommends this action be **DISMISSED WITHOUT PREJUDICE** in accordance with Rule 4(m) of the Federal Rules of Civil Procedure.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days from receipt of this Report and Recommendation in which to file any written objections to this Recommendation with the District Court. Any party opposing said objections shall have fourteen

(14) days from receipt of any objections filed in this Report in which to file any response to said objections. Failure to file specific objections within fourteen (14) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985), *reh'g denied*, 474 U.S. 1111 (1986).

A handwritten signature in black ink, appearing to read "Jeffery S. Frensley", written over a horizontal line.

JEFFERY S. FRENSLEY
United States Magistrate Judge